

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS

**FILED**  
9/15/2022  
JB  
THOMAS G. BRUTON  
CLERK, U.S. DISTRICT COURT

JAMES DIGGS

\_\_\_\_\_

Plaintiff(s),

v.

LOWE'S HOME CENTERS, LLC.

\_\_\_\_\_

Defendant(s).

Case Number: 1:21-CV-04544

## AMENDED COMPLAINT OF EMPLOYMENT DISCRIMINATION

1. This is an action for employment discrimination.
2. The plaintiff is JAMES DIGGS of the  
county of Cook in the state of Illinois.
3. The defendant is LOWE'S HOME CENTERS, LLC. /Lowe's Home Improvemnt Corporate office, whose  
street address is 1000 Lowes Boulevard,  
(city) Moorsville (county) Iredell (state) North Carolina (ZIP) 28117  
(Defendant's telephone number) (800) - 445-6937
4. The plaintiff sought employment or was employed by the defendant at (street address)  
8411 S. Holland Rd. (city) Chicago  
(county) Cook (state) Illinois (ZIP code) 60620

5. The plaintiff [*check one box*]

- (a) ☐ was denied employment by the defendant.
- (b) ☐ was hired and is still employed by the defendant.
- (c) ☒ was employed but is no longer employed by the defendant.

6. The defendant discriminated against the plaintiff on or about, or beginning on or about, (month) August, (day) \_\_\_\_\_, (year) 2019.

7.1 (*Choose paragraph 7.1 or 7.2, do not complete both.*)

- (a) The defendant is not a federal governmental agency, and the plaintiff [*check one box*] ☒ *has* ☐ *has not* filed a charge or charges against the defendant asserting the acts of discrimination indicated in this complaint with any of the following government agencies:
  - (i) ☒ the United States Equal Employment Opportunity Commission, on or about (month) November (day) 22 (year) 2019 and April 03, 2020
  - (ii) ☐ the Illinois Department of Human Rights, on or about (month) \_\_\_\_\_ (day) \_\_\_\_\_ (year) \_\_\_\_\_.
- (b) If charges *were* filed with an agency indicated above, a copy of the charge is attached. ☒ Yes, ☐ No, **but plaintiff will file a copy of the charge within 14 days.**

It is the policy of both the Equal Employment Opportunity Commission and the Illinois Department of Human Rights to cross-file with the other agency all charges received. The plaintiff has no reason to believe that this policy was not followed in this case.

7.2 The defendant is a federal governmental agency, and

- (a) the plaintiff previously filed a Complaint of Employment Discrimination with the

defendant asserting the acts of discrimination indicated in this court complaint.

☐ Yes (month)\_\_\_\_\_ (day)\_\_\_\_\_ (year) \_\_\_\_\_

☐ No, did not file Complaint of Employment Discrimination

(b) The plaintiff received a Final Agency Decision on (month)\_\_\_\_\_  
(day)\_\_\_\_\_ (year)\_\_\_\_\_.

(c) Attached is a copy of the

(i) Complaint of Employment Discrimination,

☐ Yes ☐ No, but a copy will be filed within 14 days.

(ii) Final Agency Decision

☐ Yes ☐ NO, but a copy will be filed within 14 days.

8. (Complete paragraph 8 only if defendant is not a federal governmental agency.)

(a) ☐ the United States Equal Employment Opportunity Commission has not  
issued a *Notice of Right to Sue*.

(b) ☒ the United States Equal Employment Opportunity Commission has issued  
a *Notice of Right to Sue*, which was received by the plaintiff on  
(month) December (day) 14 (year) 2020 a copy of which  
*Notice* is attached to this complaint.

9. The defendant discriminated against the plaintiff because of the plaintiff's [*check only  
those that apply*]:

(a) ☐ Age (Age Discrimination Employment Act).

(b) ☐ Color (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).

- (c) ☐ Disability (Americans with Disabilities Act or Rehabilitation Act)
- (d) ☐ National Origin (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (e) ☐ Race (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (f) ☐ Religion (Title VII of the Civil Rights Act of 1964)
- (g) ☒ Sex (Title VII of the Civil Rights Act of 1964)

10. If the defendant is a state, county, municipal (city, town or village) or other local governmental agency, plaintiff further alleges discrimination on the basis of race, color, or national origin (42 U.S.C. § 1983).

11. Jurisdiction over the statutory violation alleged is conferred as follows: for Title VII claims by 28 U.S.C. §1331, 28 U.S.C. §1343(a)(3), and 42 U.S.C. §2000e-5(f)(3); for 42 U.S.C. §1981 and §1983 by 42 U.S.C. §1988; for the ADA by 42 U.S.C. §12117; for the Rehabilitation Act, 29 U.S.C. § 791; and for the ADEA, 29 U.S.C. § 626(c).

12. The defendant [*check only those that apply*]

- (a) ☐ failed to hire the plaintiff.
- (b) ☒ terminated the plaintiff's employment.
- (c) ☒ failed to promote the plaintiff.
- (d) ☐ failed to reasonably accommodate the plaintiff's religion.
- (e) ☐ failed to reasonably accommodate the plaintiff's disabilities.
- (f) ☒ failed to stop harassment;
- (g) ☒ retaliated against the plaintiff because the plaintiff did something to assert rights protected by the laws identified in paragraphs 9 and 10 above;
- (h) ☐ other (specify): \_\_\_\_\_



[If you need additional space for ANY section, please attach an additional sheet and reference that section.]

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13. The facts supporting the plaintiff's claim of discrimination are as follows:

13.1) Plaintiff complained to Lowes Corporate office regarding incidents of harassment by Assistant Store Manager Lonzelle Brooks, Assistant Store manager Nerissa Holmes, Department Supervisor

Corey Martin, Department Supervisor Benjamin Oliver, and Store Associate Brittany Grace. (See email response .exhibit 1) 13.2) The Complaint included being verbally

harassed by the aforementioned :Corey Martin, Lonzelle Brooks, and Benjamin Oliver, by way of verbal threats, threatening tones and hand gestures and name calling and swear words by Brittany Grace when plaintiff refused to take brittany home after she requested a ride one day.

13.3) After complaining to Lowes Corporate and receiving a response, the Plaintiff's schedule was changed and hours dropped, plaintiff had less hours than other pro associates to complete tasks

13.4) Plaintiff harassed by Nerissa Holmes (Assistant Store Manager) about tasks not completed from the previous shift even though plaintiff's duties were done correctly and efficiently despite loss in hours.

(continued on ATTACHED EXHIBIT 2 )

14. **[AGE DISCRIMINATION ONLY]** Defendant knowingly, intentionally, and willfully discriminated against the plaintiff.

15. The plaintiff demands that the case be tried by a jury. ☒ Yes ☐ No

16. THEREFORE, the plaintiff asks that the court grant the following relief to the plaintiff  
[check only those that apply]


- (a) ☐ Direct the defendant to hire the plaintiff.
- (b) ☐ Direct the defendant to re-employ the plaintiff.
- (c) ☐ Direct the defendant to promote the plaintiff.
- (d) ☐ Direct the defendant to reasonably accommodate the plaintiff's religion.
- (e) ☐ Direct the defendant to reasonably accommodate the plaintiff's disabilities.
- (f) ☐ Direct the defendant to (specify): \_\_\_\_\_

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[If you need additional space for ANY section, please attach an additional sheet and reference that section.]

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (g) ☒ If available, grant the plaintiff appropriate injunctive relief, lost wages, liquidated/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.
- (h) ☒ Grant such other relief as the Court may find appropriate.

  
(Plaintiff's signature)

James Diggs  
(Plaintiff's name)

653 162nd Place  
(Plaintiff's street address)

(City) South Holland (State) Illinois (ZIP) 60473

(Plaintiff's telephone number) (708) - 705-7120

Date: 9/12/2022

[If you need additional space for ANY section, please attach an additional sheet and reference that section.]



Exhibit #1

[REDACTED]

**Fw: Lowe's Associate Relations**

1 message

James Diggs <diggsj63@yahoo.com>  
[REDACTED]

Mon, May 2, 2022 at 5:56 PM

----- Forwarded Message -----

**From:** Hayes, Jewelle - Jewelle V <jewelle.v.hayes@lowes.com>  
**To:** diggsj63@yahoo.com <diggsj63@yahoo.com>  
**Sent:** Wednesday, August 21, 2019, 10:46:33 AM CDT  
**Subject:** Lowe's Associate Relations

Good Morning/Afternoon James,

This is Jewelle Hayes with the Lowe's Associate Relations Department. This email is follow up to a Call and Voice Message left for You on 8/20/19.

Your recently reported concerns have been investigated and addressed appropriately. If You have additional questions and/or concerns feel free to partner with Your Location Store Manager. Should You have questions after speaking with the Store Manager You may contact me at Jewelle.V.Hayes@lowes.com.

Thank You again for utilizing Lowe's Open-Door Policy and allowing us the opportunity to review and address Your concerns.

Jewelle Hayes

-Jewelle Hayes

NOTICE: All information in and attached to the e-mails below may be proprietary, confidential, privileged and otherwise protected from improper or erroneous disclosure. If you are not the sender's intended recipient, you are not authorized to intercept, read, print, retain, copy, forward, or disseminate this message. If you have erroneously received this communication, please notify the sender immediately by phone (704-758-1000) or by e-mail and destroy all copies of this message electronic, paper, or otherwise. By transmitting documents via this email: Users, Customers, Suppliers and Vendors collectively acknowledge and agree the transmittal of information via email is voluntary, is offered as a

EXHIBIT 2

(Page 1 of 2)

The Facts Supporting the Plaintiffs Claims of discrimination Continued:

13.5) The store Aisles were left incomplete intentionally from the prior shift for Plaintiff to complete. Plaintiff complained to the management, and it was never rectified

13.6) Nerissa Holmes, Assistant store Manager made remarks about Plaintiff being a loser when I complained about the harassment and extra duties, with less hours. Stating things like, "Winners get it done, losers make excuses".

13.7) After Plaintiff complaint to EEOC 11/22/2019(See Exhibit 3), about harassment, it continued and worsened. Assistant store manager Carolyn Landbell would give me impossible, tedious, and complex assignments to do right before my shift ended and would make snide comments the entire time, I was trying to complete the task. Comments about "me working good under pressure and "looking better" in mocking tones.

13.8) Carolyn Landbell would stop Plaintiff in the middle of a task and direct me to another task, only to complain later that I didn't finish the task she removed me from.

13.9) Plaintiff complained to Store Manager Anthony Jones and Assistant store manager Nerissa Homes, about work being intentionally left from prior shifts and Assistant store manager Nerissa Holmes stated to Plaintiff twice that "Someone else would love to have the Plaintiffs job".

13.10) January 2020, all store associates took a survey to rate the Store Managers. Plaintiff gave Anthony Jones a bad rating assuming the survey would be anonymous. However, was denied promotion shortly after by Anthony Jones.

13.11) Plaintiff was denied a promotion, but Anthony Jones promoted two other individuals who were less qualified and not knowledgeable or a "Pro" of the Electrical Department. The Plaintiff was qualified and knowledgeable.

13.12) On March 31,2020 at 2:15, Assistant Manager Carolyn Landbell approached Plaintiff and said Plaintiff had a phone call to take in the manager's office. The caller identified herself as Erin from Human Resources. Erin stated this call is being recorded and proceeded to ask if I, Plaintiff, had any issues with anyone in the store. Plaintiff responded "yes, management. Erin from Human resources responded and asked, "What about associates". Plaintiff said no, He doesn't have any issues with any associated. Erin asked if Plaintiff knows Brittany Grace. Plaintiff responded that he only knows of associate and does not speak with her unless its work related.



13.13) Erin from Human resources stated she had Plaintiff on a voice recording speaking inappropriately to associate Brittany Grace. Erin told plaintiff he was on voice recording saying "I know you want it" and to "come and get it". Plaintiff denied claims saying he cannot be on voice recording because he doesn't speak with this associate. Erin then stated that maybe Plaintiff was only joking. Plaintiff still denied the allegation and Erin from Human resources started yelling and calling Plaintiff names like "harasser of women". Erin asked plaintiff if He had anything else to say. When Plaintiff responded no, Erin and ended the call.

13.14) Plaintiff wrongfully terminated. On Monday April 3<sup>rd</sup>, 2020, store manager Anthony Jones Called Plaintiff to his office and stated he received an email from Erin telling him to terminate me immediately. When Plaintiff inquired about the reason for termination, Anthony Jones said it was due misconduct and that he had no idea what the misconduct was.

13.15) No voice recording, or tape was ever played for Plaintiff to identify or defend allegations before, during or upon termination of employment or thereafter.

13.16) Plaintiff filed another complaint with EEOC 4/3/2020 on Date of termination for Wrongful Termination and false accusations. (See Exhibit 4)

13.17) Right to Suit letter received by Plaintiff from EEOC 12/14/2020 (Exhibit 5) Lawsuit was filed March 16,2020. Prior to termination.

13.18) Consequently plaintiff could not obtain employment after termination for false accusations. (See exhibits 6 &7 for some of the denial emails)

Exhibit 3

EEOC Form 5 (11/09)

<b>CHARGE OF DISCRIMINATION</b> This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC <b>440-2019-06958</b>	
<b>ILLINOIS DEPARTMENT OF HUMAN RIGHTS</b> and EEOC <i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.) <b>MR. JAMES I DIGGS</b>		Home Phone <b>(708) 705-7170</b>	Year of Birth <b>1963</b>
Street Address City, State and ZIP Code <b>653 EAST 162ND PLACE, SOUTH HOLLAND, IL 60473</b>			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name <b>LOWE'S</b>		No. Employees, Members <b>501+</b>	Phone No. <b>(773) 952-5000</b>
Street Address City, State and ZIP Code <b>8411 HOLLAND ROAD, CHICAGO, IL 60621</b>			
Name		No. Employees, Members	Phone No.
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest <b>11-22-2019 11-22-2019</b> <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <b>I BEGAN MY EMPLOYMENT WITH RESPONDENT ON OR ABOUT OCTOBER 20, 2010. MY CURRENT POSITION IS ELECTRICAL PRO ASSOCIATE. DURING MY EMPLOYMENT WITH RESPONDENT, I WAS FALSELY ACCUSED OF ENGAGING IN HARASSMENT.</b>  <b>I BELIEVE I HAVE BEEN DISCRIMINATED AGAINST BECAUSE OF MY SEX, MALE, IN VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED.</b>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.  I declare under penalty of perjury that the above is true and correct.  <b>Digitally signed by James Diggs on 11-22-2019 06:01 PM EST</b>		NOTARY - When necessary for State and Local Agency Requirements  I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	



Exhibit 4

EEOC Form 5 (11/09)

<b>CHARGE OF DISCRIMINATION</b> This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC <b>440-2020-06941</b>	
<b>ILLINOIS DEPARTMENT OF HUMAN RIGHTS</b> and EEOC <i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.) <b>MR. JAMES DIGGS</b>		Home Phone <b>(708) 705-7170</b>	Year of Birth <b>1963</b>
Street Address City, State and ZIP Code <b>653 EAST 162ND PLACE, SOUTH HOLLAND, IL 60473</b>			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name <b>LOWE'S HOME IMPROVEMENT</b>		No. Employees, Members <b>501+</b>	Phone No.
Street Address City, State and ZIP Code <b>8411 HOLLAND RD, CHICAGO, IL 60621</b>			
Name		No. Employees, Members	Phone No.
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		<b>04-03-2020 04-03-2020</b>  <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <b>I began my employment with Respondent in or around October 2010. My most recent position was Electrical Pro Associate. During my employment, I filed an EEOC charge (440-2020-00537). Subsequently, I was subjected to harassment and different terms and conditions, including, but not limited to, being given less hours to complete my tasks. On or about April 3, 2020, I was discharged.</b>  <b>I believe I have been discriminated against in retaliation for engaging in protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended.</b>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.  I declare under penalty of perjury that the above is true and correct.  <b>Digitally signed by James Diggs on 12-03-2020 10:24 AM EST</b>		NOTARY - When necessary for State and Local Agency Requirements  I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	

Exhibit 5

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: James Diggs  
653 East 162nd Place  
South Holland, IL 60473

From: Chicago District Office  
230 S. Dearborn  
Suite 1866  
Chicago, IL 60604

☐

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

440-2020-06941

Marina Ravelo,  
Investigator

(312) 872-9746

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☒ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Julianne Bowman/np

12/14/2020

Enclosures(s)

Julianne Bowman,  
District Director

(Date Mailed)

cc: **LOWE'S HOME IMPROVEMENT**  
c/o Cara Defrancesco  
Mailcode-Nb6lg  
1000 Lowe's Blvd  
 Mooresville, NC 28117





Gmail

Exhibit 6

~~James Diggs <diggsj63@yahoo.com>~~**Fw: Response to job inquiry**

1 message

**James Diggs** <diggsj63@yahoo.com>

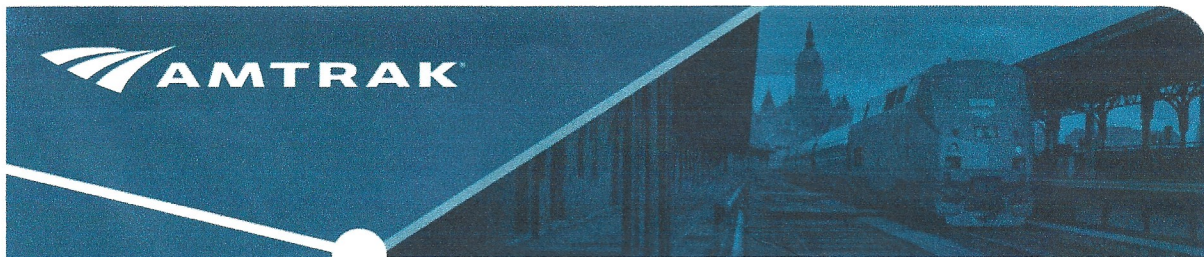
Mon, Sep 12, 2022 at 6:15 PM

Reply-To: James Diggs &lt;diggsj63@yahoo.com&gt;

~~James Diggs <diggsj63@yahoo.com>~~

Sent from Yahoo Mail on Android

----- Forwarded Message -----

**From:** "Amtrak Talent Acquisition" <system@successfactors.com>**To:** "James IRVIN Diggs" <diggsj63@yahoo.com>**Sent:** Fri, Nov 5, 2021 at 2:06 PM**Subject:** Response to job inquiry

Dear James Diggs,

Thank you for your interest in Amtrak and the position Customer Service Representative - 90061801 - Carbondale. After reviewing your credentials, we have decided to pursue other candidates at this time. We appreciate your interest in Amtrak and encourage you to continue to visit our careers site and apply to other positions.

**Amtrak Talent Acquisition Team****AMTRAK**

CAREERS

[careers.amtrak.com](https://careers.amtrak.com)



Exhibit 7

~~CONFIDENTIAL~~

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**Fw: Menards Manager Trainee Application**

1 message

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**James Diggs** <diggsj63@yahoo.com>  
Reply-To: James Diggs <diggsj63@yahoo.com>  
~~CONFIDENTIAL~~

Mon, Sep 12, 2022 at 6:20 PM

Sent from Yahoo Mail on Android

----- Forwarded Message -----

**From:** "Menard, Inc (Do Not Reply)" <system@hirebridgemail.com>

**To:** "diggsj63@yahoo.com" <diggsj63@yahoo.com>

**Sent:** Wed, Apr 13, 2022 at 10:06 AM

**Subject:** Menards Manager Trainee Application



*Dedicated to Service & Quality™*

Hello James Diggs,

Thank you for your interest in the Manager Trainee position! After further review of your application, we have decided to pursue other candidates. If you have interest in additional positions at this location, please review our available listings on [Menards.com/careers](https://www.menards.com/careers) and submit for your application for those positions.

We appreciate your interest.

Best regards,

Team DOLTON, IL Menards